IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.410 OF 2006
IN
SUMMONS FOR JUDGMENT NO.514 OF 2005
IN
SUMMARY SUIT NO.1398 OF 2005

V.M.K.Enterprises .. Appellant

Vs.

Goodlass Nerolac Paints Ltd. .. Respondent

Mr.H.Toor i/b. S.K.Legal Associates for the Appellant.
Mr.Jaydeep Mitra i/b. Apte & Co. for the Respondent.

CORAM : DR.S.RADHAKRISHNAN &
S.J.VAZIFDAR, JJ.

DATE : 26TH JULY,2006.

P.C.:

1. Heard the learned Counsel for the parties. By this Appeal, the Appellant is challenging the order dated 30th January, 2006, passed by the Learned Single Judge, granting conditional leave, whereby the Appellant/Defendant was directed to deposit a sum of Rs.4,00,000/-, out of the suit claim of Rs.5,82,234/-.

2. The main contention of the Learned Counsel for the Appellant is that the aforesaid goods were not actually sold to the Appellant, however, the Appellant was asked to keep the goods by way of storage. On the contrary, we find that the Appellant had purchased the aforesaid goods from the Respondents and has paid with

regard to various invoices. We do not find any error or illegality in the order granting conditional leave to deposit. There is no dispute that the Appellant has received goods and has not paid for the same. The main defence sought to be raised is found in the Appellant's Advocate letter dated 4th May, 2005, which reads :-

> "In September, 2004, Mr.Kodre again approached my Clients and requested them to accept the goods though my Clients had not ordered for them. He requested my Clients to store the goods with them, otherwise he would lose his job if the material is not cleared from your Client's godown showing the same as sales."

3. The above contents clearly indicates that the Appellant had colluded with an employee of the Respondents. The entire defence prima facie appears to be false. Hence, there is no ground made out for the admission of the Appeal. Hence, the same stands dismissed.

4. Now, the learned Counsel for the Appellant prays for time to deposit the amount. The time is extended by eight weeks from today.

(DR.S.RADHAKRISHNAN,J.)

(S.J.VAZIFDAR,J.)